

**STATE'S TIME  
THEORY IN**

**FRANK CASE IS  
ASSAILED**

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**WOMAN SAYS  
SHE**

**HEARD GIRL  
SCREAM**

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# AT DIFFERENT HOUR

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Mrs. J. B. Simmons, of  
Bir-

mingham, Declares  
Cries

Came From Factory  
Base-

ment, and After 1  
o'Clock

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TOLD IT TO  
SOLICITOR

BUT WAS NEVER  
CALLED

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Witness Says  
Prosecutor Did

Not Ask Her to  
Change

Statement as to  
Time, but

# Said It Didn't Fit His Theory

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(Special Dispatch to The Journal.)

BIRMINGHAM, Ala., March 13.—That she distinctly heard three screams coming from the basement of the National Pencil factory on the afternoon of the day that Mary Phagan was murdered and that this information was given to the solicitor general and discarded by him, is the substance of a statement made to a Journal reporter by Mrs. J. B. Simmons aged 60 years, a former Atlanta woman.

Mrs. Simmons has put her testimony in the form of an affidavit which is now in the hands of Captain C. W. Burke, a detective in the employ of attorneys for the defense of Leo M. Frank who has been sentenced to death for the murder. The affidavit will be used as a part of the extraordinary motion for a new trial for the condemned man. The fact that Mrs. Simmons had given information to the solicitor general, which was not used at the trial of Frank, first became known to the defense in October, 1913, a short time after the trial and on the 14<sup>th</sup> of that month she made an affidavit for the defense. An inaccuracy resulted in copying the original affidavit on Friday, and she corrected the mistake.

Mrs. Simmons, who is now living at the Carter House with a daughter, Mrs. Mable Birch, Second Avenue and Twenty-Fourth street, in her statement to The Atlanta Journal said:

I was living in Atlanta at 28 Haynes Street with my son-in-law, A. Williams, who is now in Birmingham, during April of last year, and on Memorial Day I came up town with my husband, who is a cripple, and had just left the Grady hospital a short time before.

After watching the parade on Whitehall Street for a short time, I left my husband, who was going straight home, and walked by the Atlanta Shoe company's store, where for five years my husband had been employed as a shoe repairer. His mail always came there when we were in Atlanta, and I went by to see about the collection of a pension which he gets because of a wound received in the Spanish-American war.

#### STARTLED BY SCREAMS.

There I got into a religious discussion with a gentleman who had heard a lecture I attended a few days before. After some time, I walked on up Forsyth Street toward Alabama to get a car, and as I passed the National Pencil factory I was startled by a woman's shrill scream.

I stopped and grasped a railing which runs along there.

It was by a grating that seemed to lead in the direction of the factory basement.

Then the scream came again. "Don't; please don't!" the woman or girl screamed. Then the sound was stopped, just as if some one had placed his hands over her mouth.

The scream and the plea for

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**WOMAN SAYS SHE**

# HEARD GIRL SCREAM AT DIFFERENT HOUR

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**(Continued From Page 1.)**

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mercy came again, but each time it was stopped before I could hear a name.

I thought some negro was shipping or killing his wife, and I looked around to see if there were any men nearby. I didn't see a soul in the block except one woman, and then I walked on and boarded my car. I mentioned the occurrence at the supper table that night. I thought no more about it until Sunday afternoon, when Mr. Williams came home very much excited and told me that a girl was murdered in the factory, and I must have heard her screams. Then he notified the detectives.

Mrs. Simmons' recollection as to time is very hazy, and she cannot fix the time of the screams except by the parade. She thinks the parade started at 1 o'clock.

During the week after the murder, she says two city detectives, who gave their names as Webb and Harper, came to her residence and talked to her. When they left, they told her to talk to no one except the solicitor general, she says, and a few days later she was subpoenaed to Mr. Hugh Dorsey's office.

In the original affidavit, which Mrs. Simmons says she signed, it is stated the solicitor general tried hard to induce her to say that the time was later than that which she fixed.

This is inaccurate, she says.

The solicitor told her to refresh her memory and repeatedly told her that the girl must have been murdered earlier in the day.

Mrs. Simmons states that she thinks it must have been between 2 and 3 o'clock in the afternoon, Mr. Dorsey, she says, made her go over the details of the visit to the city that day, but she could not fix the time any earlier.

#### CONSIDERED NEW WITNESS.

During the course of her talk about the time with the solicitor Mrs. Simmons says she thinks the solicitor remarked that Frank was not supposed to be in the factory at the time she heard screams, but she is not sure of this. Mrs. Simmons is considered a new witness of importance by Captain Burke for the reason that she is positive she heard the screams after the parade had started.

That the screams came from the basement of the factory there is no doubt, Mrs. Simmons declares.

The defense of Leo M. Frank has always contended that Mary Phagan was murdered in the basement of the factory, not on the second floor, where the office is located.

Mrs. Simmons describes the spot in detail where she stood and listened to the screams, which came at intervals of 30 or 40 seconds.

Williams, who is a wall paper hanger, moved his family to Birmingham before the trial of Frank and Mrs. Simmons came with him. After she arrived, she wrote the solicitor general, giving him her address, and saying she was willing to come to Atlanta if he considered it necessary. She heard nothing from him and after the trial she discussed the time theory in the murder case with Mrs. A. B. Davis, a former Atlanta woman now residing in Birmingham. Mrs. Davis persuaded her to write Attorney Reuben R. Arnold, of the Frank defense, about hearing the screams.

Mrs. Simmons is in poor health and declares she will be frightened out of her wits, if she has to come to court.

"But I am willing to go," she declared, "if it is in the interest of justice."

"Besides," the aged woman added, smiling, "I lived in Atlanta 30 years of my life and raised my family there, and wouldn't mind going back. I will never leave home if I go there again."

#### MRS. SIMMONS' AFFIDAVIT.

The following is the original affidavit made the defense by Mrs. Simmons:

State of Alabama.

County of Jefferson.

Before me, Griffin Lamkin, a notary public in and for said state and county, comes Mrs. J. B. Simmons, known to or being made known to me, of Birmingham, Ala., who under oath deposes and says:

That on the 26<sup>th</sup> day of April, 1913, she was in Atlanta, Ga., and was calling at 25 West Alabama Street at the Atlanta Shoe company's place of business, and while there, became involved in a religious argument with Mr. Barron's cousin, who she believes is called Riley, and the deponent believes it was about 2:00 or 2:30 o'clock p. m. when the discussion took place. Deponent says that the Decoration Day parade was in progress at the time of the argument referred to above, and was moving down Whitehall Street and south on Hunter Street toward Pryor Street. Deponent further says that between the hours of 2 p. m. and 3 p. m., she left the Atlanta Shoe company's place of business, going north up Alabama street to Forsyth Street, and then passed the National Pencil company's factory, it being her intention to go to 28 Haynes Street, where she had a temporary room. Deponent further says that when she got in front of the National Pencil company's factory, she heard a girl or woman screaming and



crying and saying, "Please don't," and then heard the voice shut off suddenly making a noise or sound much as though one person was holding their hand over the mouth of another person. Deponent says when she heard the cries she stopped and listened and says the sound of the voice in distress apparently came from the basement of the building referred to because there is a grating in the front of the building and because it is open beneath the grating and because the doors facing the street of the building were all closed. And also, because she noted an open place beneath the grating, which led into the basement of the building.

#### THOUGHT IT WAS RIOT.

Deponent further says that at the time she heard the screaming of the girl or woman the thought occurred to her that some man was perhaps whipping his wife or that perhaps it was some negro riot, and after waiting a short time and hearing no further similar sounds, deponent decided to go on to her destination. Deponent further says that as soon as she reached her home, she related the circumstances described herein to her son-in-law, who is Mr. A. B. Williams, and who was at that time living at 28 Haynes Street. Deponent further says that she thought no more of the incident or occurrence until the following morning when her son-in-law came into her room and told her that Mary Phagan had been murdered in the National Pencil company's factory.

Deponent further deposes and says that at the time she gave the information referred to herein to her son-in-law, that he insisted she should go before the solicitor general of Fulton County and give him the benefit of the information she had outlined to him—the same as she had outlined herein. Deponent says that on or about May 5 she was subpoenaed to appear before the solicitor general, who is Mr. Hugh Dorsey, and that she answered the subpoena, and made and signed a sworn—statement in his office, said statement being taken by Mr. Dorsey

in his own handwriting, and which set forth the same facts as described in this statement.

Deponent further deposes and says that the solicitor general tried very hard to induce her to swear that the screaming which she had heard was at a much later time in the day and he called her attention to the fact that Mr. Frank was not in the factory at the time deponent was describing and deponent told the solicitor general that she would not testify to anything except the truth, even though her testimony did not suit the solicitor. Deponent further says that she left her address with the solicitor general and fully expected that she would be subpoenaed to testify at the trial of Leo M. Frank, but she was never subpoenaed—the cause of which she does not yet understand. Deponent further deposes that she gives this information of her own free will and accord without any promise of a reward whatsoever.

# Detective Burns Expected To Arrive at Any Time

Detective William J. Burns, who was expected to arrive in Atlanta Friday morning to confer with his agents here relative to their investigations into the Phagan murder, did not put in his appearance. Mr. Burns had not stated definitely that he would be here Friday, but the impression got abroad that he would. It is understood Mr. Burns will be in Atlanta within the next few days.

**MANY LETTERS  
INDORSE**

**THE JOURNAL  
EDITORIAL**

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Here Are a Few of  
Numerous

Communications  
Urging a

**New Trial for Frank**

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The Atlanta Journal and its editor have received several hundred letters and telegrams commending and indorsing the editorial, "Frank Should Have a New Trial," which appeared in these columns on Tuesday.

These letters and telegrams were in the main written by citizens of Atlanta and Georgia, but many of the paper's readers in other states have taken occasion to express their approval of the editorial.

Below is printed the expressions of Colonel F. J. Paxon, of Atlanta; Captain R. M. Clayton, chief of construction for the city of Atlanta; Forrest Adair, of Atlanta; W. H. Williams, cashier of the Farmers' State bank, of Lumpkin; Attorney James H. Gilbert, of Atlanta; Attorney J. W. Landrum, of Carnesville; J. C. Williams, editor of the Greensboro Herald-Journal; Rev. Frank S. Hudson, pastor of the East Point Methodist church; J. F. Alman, Jr., of the Greenwood (S. C.) Brokerage company, and George D. Head, of Tunnell Hill.

**FROM F. J. PAXON.**

Atlanta, Ga., March 11, 1914.

Mr. Jas. R. Gray,  
Editor The Atlanta Journal,  
City.

My Dear Mr. Gray:

I read with interest your editorial in last night's paper, in re: The Frank case and your demand that justice be shown.

The editorial is among the right line. I do not know whether Frank is guilty or innocent, all I do know is that there was a doubt in the mind of Judge Roan as expressed by him from the bench, and I know further that the state of Georgia cannot afford to hang a man with a question resting as to his guilt.

Hence, my congratulations to you on your strong editorial, demanding as it does in the name of justice solely: a new trial.

Mr. Davison unites with me in this letter.

I am, with personal regards,

Yours,

F. J. PAXON.

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**FROM FORREST ADAIR.**

Atlanta, Ga., March 11, 1914.

Mr. James R. Gray,  
Care Journal, Atlanta, Ga.

My Dear Mr. Gray:

I want to commend you for the forceful, fair, honest and courageous editorial in yesterday's issue in regard to the Frank trial. It is simply irresistible, and required nerve to come out with it.

Yours very  
sincerely,

FORREST ADAIR.

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**FROM REV. F. S. HUDSON.**

East Point, Ga., March 11, 1914.

Mr. James R. Gray,  
Atlanta, Ga.:

My Dear Sir,

From the depths of my soul I want to thank and commend you for the bold, brave, manly and magnificent editorial in yesterday's Journal concerning Leo M. Frank.

Yours in Christ,  
FRANK S. HUDSON.

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**FROM CAPTAIN CLAYTON.**

Department of  
Chief of Construction,

March 11, 1914.

Mr. Jas. R. Gray,  
Editor Atlanta Journal,  
Atlanta, Ga.

Dear Sir:

I wish to commend you for your very manly editorial in The Journal of yesterday afternoon in re the Frank case. I fully agree with every statement you make and it is refreshing to find a man who has the courage of his convictions.

Yours very truly,

R. M. CLAYTON

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**FROM J. F. ALMAN, JR.**

Greenwood, S. C. March 12, 1914.

The Atlanta Journal, Atlanta, Ga.

Gentlemen—I admire the stand that you are taking in the celebrated Frank case. I believe justice demands that Frank be given a new trial, and if he be guilty let him suffer the extreme penalty of the law.

At the time he was tried and convicted I, like the majority of other people, was clamoring for a conviction, but after serious consideration of the case I doubt very much whether Frank is guilty or not, but there is one thing I am sure of and that is justice demands that Frank be granted a new trial.

Yours truly,

J. F. ALMAN, JR.

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**FROM W. H. WILLIAMS.**

Lumpkin, Ga., March 13, 1914

Editor of Atlanta Journal, Atlanta, Ga.

My Dear Sir:—As an humble citizen of the state of Georgia, I want to extend my congratulations, and express my hearty approval of the position you have taken in the Frank case.

Every fair-minded man in this great state should be, not only willing, but anxious, that he should have a new trial.

Since the first whisper of suspicion against him, the mad desire to hang him seems to have overshadowed everything else, and the one great thing of finding the real murderer has been overlooked or forgotten.

Thanking you for your manly editorial, and hoping that it will accomplish what it should, I am

Very Truly Yours,

W. H. WILLIAMS

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**FROM J. W. LANDRUM.**

March 12, 1914.

Editor Atlanta Journal, Atlanta, Ga.

Dear Sir: Let us comment your editorial in yesterday's paper anent the Frank case. That trial last August was an outrage against fairness and decency. The circumstances justify your editorial and more like it, if the state is to be saved the opprobrium of a judicial murder. Very truly,

J. W. LANDRUM.

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**FROM J. H. GILBERT.**

Atlanta, Ga., March 11, 1914.

To The Editor of The Journal.

Dear Sir: I beg to congratulate you upon the manly attitude taken in the editorial which appeared in your issue of 10<sup>th</sup> inst., which is, in my opinion, an absolutely fair criticism of the Frank case. As the only practical way in which I can now back up this

opinion, I beg to enter my subscription for a year, and to send paper to my address below stated. I enclose my check for \$6.

Yours truly.

JAMES H.

GILBERT.

724 Piedmont

Avenue.

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**FROM J. C. WILLIAMS.**

Greensboro, Ga., March 11, 1914.

Atlanta Journal, Atlanta, Ga.

Congratulations on your fairness in Leo Frank editorial. I do not think defendant was given a fair, just and legal trial.

J. C. WILLIAMS.

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**FROM GEORGE D. HEAD.**

Tunnel Hill, Ga., March 12, 1914.

Mr. Editor: In The Atlanta Journal of the 11<sup>th</sup> inst. Is an editorial under caption "Frank Should Have a New Trial." I wish to express an unqualified indorsement to every line of said editorial.

In times of excitement, reason is often dethroned and justice relegated to the background. With no desire but to know the truth and to see justice meted out to the guilty party, the writer kept up with the trial of Leo M. Frank as reported in the newspapers from day to day. With no prejudice for or against any one, a strong desire to see the guilty party pay the penalty the law inflicts, my whole being revolted at the conviction of Frank, upon the character of evidence and the means used to accomplish the end. The record is made up and Frank has been sentenced to hang on April 17. Guilty or not guilty. Frank has not had a fair and impartial trial. Do you ask me why I say this? I refer you to the evidence the environments and means used to secure his conviction. The state of Georgia cannot afford to hang this man



without giving such a trial as is guaranteed to every American citizen. Judicial murder is a greater crime than murder by mob violence. From the greatest to the least, every citizen of Georgia is interested in a full, free, fair and just administration of the law. Not only the present, but future generations are affected by what we do. Then "Let justice be done, though the heavens fall.

Very truly yours,  
GEORGE D. HEAD.

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# **PDF PAGE 9, COLUMN 1**

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# **DR. L. O. BRICKER WILL DISCUSS FRANK CASE**

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Dr. L. O. Bricker, pastor of the First Christian church, has announced he will speak Sunday night from his pulpit on the question "Should Leo M. Frank have a New Trial?"

Dr. Bricker believes the hour has arrived for sober, second thought, and invites all open-minded persons to join him in a calm, dispassionate consideration of some phases of this notable case.

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